

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN J. BAUGHAN

Plaintiff

v.

KEITH PELLETIER, TODD OLIVER
FRANCIS NAPERT and SCOTT
ARLINGTON

Defendants

Civil Action

No. 04-10704RWZ

**PLAINTIFF'S OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

Plaintiff opposes Defendants' Motion to Dismiss and requests that the Court instead allow his Motion for Leave to File Second Amended Complaint, a copy of which has been provided along with said Motion.

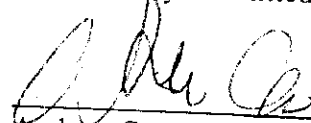
Plaintiff concedes that, as drafted, his Amended Complaint might be subject to dismissal, at least in part and possibly as a whole. However, he believes that these problems have been completely eliminated in the Second Amended Complaint.

The Second Amended Complaint has entirely eliminated the Town of Westport, the Town Selectmen and the Chief of Police as defendants and the plaintiff would file a Voluntary Stipulation of Dismissal as to these defendants should the Court request it. The complaint now sets forth claims against only the individual police officers and their supervisor. It has been completely streamlined and numerous redundant counts have been eliminated.

The defendants are well aware that if the Court acts favorably on their motion, the plaintiff will be barred from any further action on this matter by the statute of limitations. This would extinguish any rights he has to seek recovery for the substantial injury he suffered at the hands of a few local police officers who he alleges acted totally without legal justification or cause. On the other hand, the defendants can claim no prejudice from the Court's allowing the Second Amended Complaint unless prejudice can be found in the necessity that they continue to defend the case.

WHEREFORE, plaintiff requests that the Motion to Dismiss be denied.

Respectfully submitted



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Certificate of Service

I hereby certify that a true copy of the above document
was served upon the attorney of record for each other party
by mail and on 8/30/04